

KRAMER LEVIN NAFTALIS & FRANKEL LLP

MICHAEL J. DELL
PARTNER
PHONE 212-715-9129
FAX 212-715-8000
MDELL@KRAMERLEVIN.COM

SUBMITTED UNDER SEAL FOR *IN CAMERA* REVIEW

June 3, 2014

BY HAND

Hon. Richard Sullivan
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: *Enzo Biochem, Inc., et al. v. PerkinElmer, Inc., et al.*,
03 Civ. 3817 (RJS)

Dear Judge Sullivan:

We represent plaintiffs in this action, and write to request the scheduling of a conference at the Court's earliest convenience.

We are pleased to inform the Court that plaintiffs have arrived at a settlement and agreed on the terms of a written settlement agreement with defendants, subject to a condition precedent which is the subject of this letter. By letters dated May 12 and April 29, 2014 to counsel for defendants, plaintiffs' prior counsel, Greenberg Traurig, LLP ("GT") asserted a lien on any settlement payments made in connection with this action, requested that any such settlement payments be held in escrow, and asserted that defendants' failure to comply with the request would expose the defendants to claims by GT. Accordingly, defendants have requested as a condition precedent to the settlement that GT provide a release to defendants. In order to obtain that release and minimize any prejudice to GT, plaintiffs offered to have the settlement agreement provide that certain settlement proceeds would be segregated and placed in escrow pending the determination of GT's and plaintiffs' claims against each other. However, GT has refused to provide a release to defendants on those terms. Plaintiffs remain willing to place in escrow _____, which is the payment GT requested in its April 29 letter to PE initially asserting a charging lien, or such other amount of the proceeds up to _____ that GT requested following its subsequent May 12 letter to PE after the Court entered its May 9, 2014 order, that the Court believes would be appropriate.

On May 9, 2014 Your Honor issued an order scheduling this action for trial on June 30, 2014. On May 28, 2014, Your Honor ordered the parties jointly to submit an update no

1177 AVENUE OF THE AMERICAS NEW YORK NY 10036-2714 PHONE 212.715.9100 FAX 212.715.8000

990 MARSH ROAD MENLO PARK CA 94025-1949 PHONE 650.752.1700 FAX 650.752.1800

47 AVENUE HOCHE 75008 PARIS FRANCE PHONE (33-1) 44 09 46 00 FAX (33-1) 44 09 46 01

WWW.KRAMERLEVIN.COM

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Hon. Richard Sullivan

June 3, 2014

Page 2

later than June 11, 2014, as to whether they have resolved any disputes contained in a number of pre-trial documents they had submitted to the Court, and to attend a pre-trial conference on June 20, 2014 at 3:30 pm.

For these reasons, plaintiffs urgently request a conference with the Court and counsel for defendants and GT so that a settlement can be concluded in this action without prejudicing the claims of plaintiffs and GT against each other.

Thank you for your consideration.

Respectfully yours,

A handwritten signature in dark ink, appearing to read "Michael Dell", written in a cursive style.

Michael J. Dell

cc (by e-mail (PDF): Robert Gunther, Esq. (Robert.Gunther@wilmerhale.com)
William McElwain, Esq. (William.McElwain@wilmerhale.com)
Michael C. Miller, Esq. (mmiller@steptoe.com)
Scott Berman, Esq. (sberman@fklaw.com)